trade or business a guaranty against the competition of the former proprietor, and when this end has been attained it will not be presumed that more was intended. *Greenfield* v. *Gilman,* 140 N. Y. 168, 173. If the business be of such a character that it cannot be restrained to any extent without prejudice to the public interest, courts decline to enforce or sustain contracts imposing such restraint, however partial, because it is against public policy. *West Virginia Transp. Co.* v. *Ohio R. P. L. Co.,* 22 W. Va. 600; *Chicago Gas etc. Co.* v. *People's Gas Co.,* 121 Ill. 530; *Western U. T. Co.* v. *American U. T. Co.,* 65 Ga. 160; *Gibbs* v. *Consolidated Gas Co.,* 130 U. S. 396, 408, 409.

COURTS—DOCTRINE OF STARE DECISIS.—A Circuit Court of Appeals certified to the Supreme Court a question of taxation on which it had already passed in two previous cases, one of which had been affirmed by the Supreme Court without opinion, by an evenly divided court. *Held,* the affirmance necessitated by the even division of opinion in the Supreme Court was not such an authoritative determination of the question as to be conclusively binding on inferior Federal Courts. *Hertz* v. *Woodman et al.* (1910), 218 U. S. 205.

The holding in the principal case seems to be justified by reason as well as by authority. *Westhus* v. *Union Trust Co.,* 94 C. C. A. 95, 168 Fed. 617. *Durant* v. *Essex Co.,* 7 Wall 107, 19 L. Ed. 154. The circuit court is not inflexibly bound in all cases by its own prior decisions, *Leavitt* v. *Blatchford,* 17 N. Y. 521; *Butler* v. *Van Wyck,* 1 Hill 438, 462; and it is difficult to understand how an affirmance of its decision by an evenly divided court establishes a stronger precedent, *Hanifen* v. *Armitage* (C. C.), 117 Fed. 845. But the rule would seem to be otherwise in England. *Beamish* v. *Beamish,* 9 H. L. Cas. 274.

EVIDENCE—ADMISSIBILITY OF CONFESSIONS.—In a trial for murder committed while robbing the deceased, confessions made by the defendant to various parties and at various times were admitted in evidence against him, even though one of these confessions was made to an officer ten days before defendant's arrest and upon the advice of the officer, that it would be better for him, the defendant, to tell the truth. *Held,* that under the circumstances the statement made by the officer could not be regarded as such a threat by a person in authority as would deprive the confession of its voluntary character and render it inadmissible. *State* v. *Jacques* (1910), — R. I .—, 76 Atl. 652.

Where several confessions are made upon different occasions, each may be proved in evidence. *Lowe* v. *State,* 125 Ga. 55, 53 S. E. 1038. In order, however, for any confession to be admissible in evidence it must appear that it was made voluntarily. (*State* v. *Edwards,* 106 La. 674; *Burlingim* v. *State,* 61 Neb. 276, 85 N. W. 76; *State* v. *Mclain,* 137 Mo. 307, 38 S. W. 906); not prompted by the flattery of hope or by reason of fear (*State* v. *Hunter,* 181 Mo. 316; *State* v. *Grover,* 96 Me. 363); nor induced by threat or promise by a person in authority. *Brum* v. *U. S.,* 168 U. S. 532; *U. S.* v. *Nott,* 1 McLean 499; *People* v. *Stewart,* 75 Mich. 21; *People* v. *McCullough,* 81 Mich.

25; 3 ENCYC. EVID., pp. 301-302 and cases cited. Mr. WIGMORE in his Treatise on Evidence partially repudiates the tests of admissibility embodied in the rule just stated and contends that the test should be whether the inducement was such as that there would be any fair risk that the confession would be false. 1 WIG. EVID., § 824, and cases there cited. While in theory it is difficult to see how the employment of the words used in the principal case should render the confession inadmissible, when judged by the standard contended for by Mr. WIGMORE, who repudiates the exclusion of a confession made subsequent to such advice, yet the English courts quite generally exclude a confession made under such circumstances. *R.* v. *Garner,* 1 Den. Cr. C. 329; *R.* v. *Baldry,* 2 Den. Cr. C. 441; *R.* v. *Fennell,* 7 Q. B. D. 147; *R.* v. *Bate,* 11 Cox Cr. C. 686. These cases represent the weight of authority in England on the point involved in the principal case. See also 1 WIG. EVID. 832 and note. In the United States the weight of authority is that a confession made subsequent to such advice is admissible. *Aaron* v. *State,* 37 Ala. 106; *State* v. *Potter,* 18 Conn. 166; *Hardy* v. *U. S.,* 3 D. C. App. 35; *Valentine* v. *State,* 77 Ga. 471; *Nicholson* v. *State,* 38 Md. 140; *Com.* v. *Mitchell,* 117 Mass. 431; *People* v. *Kennedy,* 159 N. Y. 346, 54 N. E. 51; *Benson* v. *State,* 119 Ind. 488; *State* v. *Kornstell,* 62 Kas. 221; *Sharkey* v. *State,* 4 O. Cir. Ct. Rep. 101. Contra: *Kelley* v. *State,* 72 Ala. 244; *Briscoe* v. *State,* 67 Md. 6; *State* v. *Walker,* 34 Vt. 296; *Stephen* v. *State,* 11 Ga. 225; *People* v. *Gonzales,* 136 Cal. 666; *State* v. *Jackson,* 3 Pinnewell (Md.) 270, 50 Atl. 270.

EVIDENCE—ADMISSIBILITY OF MARKET QUOTATIONS.—In an action to recover damages for breach of contract to deliver eggs in stipulated installments the defendant was allowed to introduce in evidence the quotation of the Kansas City Produce Exchange of the price of eggs upon the day of breach, in order to show that the market price on that day was 14½c, the contract price, and hence, plaintiff had not suffered by the breach. It appeared that the quotation offered was the official quotation of that market and was made up by a committee of the exchange, who, using the receipts and sales of the day as a basis, took into consideration the state of the market in other places, and various other items, and fixed the quotation for that day at what they thought it ought to be in view of all the facts. *Held,* that the admission of a quotation made up in such a manner was error. *F. W. Brockman Commission Co.* v. *Aaron* (1910), — Mo. app. —, 130 S. W. 116.

The general rule upon the point involved in the principal case, as stated by Judge Cooley in *Sisson* v. *R. Co.,* 14 Mich. 496, is that a market quotation or report is admissible if it is such a report as people generally place reliance on in their actual business dealings, provided it is based on a survey of the whole market and is derived from persons having an opportunity to know the course of the market. This rule is supported by the following cases, *Western Wool Commission Co.* v. *Hart* (Tex.) 20 S. W. 131; *Kebler* v. *Caplis,* 140 Mich. 28; *Tri-State Milling Co.* v. *Breisch,* 145 Mich. 232; *Mosley* v. *Johnson,* 144 N. C. 257; *St. Louis & S. F. R. Co.* v. *Pearce,* 101 S. W. 760, 82 Ark. 339; *Chicago B. & Q. R. Co.* v. *Todd,* 74 Neb. 712; *Farley* v. *Smith,*